IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10321 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

HARESHBHAI PARSHOTTAMBHAI PATEL - Petitioner(s)

Versus

MANAGER NAVBHARAT SEEDS PVT LTD - Respondent(s)

==========

Appearance :

MR PRABHAKAR UPADYAY for Petitioner No(s).: 1.

MR BHAVIN JOSHI for MR PRAKASH K JANI for Respondent No(s).: 1.

==========

CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 29/06/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 12.05.1999 passed by the Labour Court, Ahmedabad in

Reference (LCA) No.389 of 1991, whereby the said reference was partly allowed.

2.0 The petitioner was appointed as a Trainee Dispatch Clerk in the respondent Company in the Pay-scale of Rs.350 – Rs.1050. On 02.10.1990, the petitioner submitted a leave application for four days which was sanctioned by the sanctioning authority of the respondent Company.

2.1 It is the case of the petitioner that on 10.10.1990, the petitioner was orally terminated from the service without following any procedure of law and without holding any inquiry though the petitioner was a permanent employee of the respondent Company. Pursuant to the above, the petitioner issued two legal Notices through his Advocate. Since the petitioner was not reinstated in service, he lodged a complaint before the Conciliation Officer. Ultimately, the matter came to be referred to the Labour Court, Ahmedabad for adjudication by way of a Reference. The Labour Court, Ahmedabad by impugned order allowed the reference partly. Hence, this petition.

3.0 Mr. Upadhyay learned advocate for the petitioner has contended that the Labour Court has gone beyond the scope of the reference by transferring the petitioner to the Jalna Branch in Maharashtra State of the respondent Company. He has submitted that the reference preferred by the petitioner was limited to challenging the order of termination and regarding the reinstatement of the petitioner to his original post. He has submitted that the Labour Court has committed an error in law by traveling beyond the scope of the reference.

4.0 Mr. Bhavin Joshi learned advocate for Mr. PK Jani for the respondent has submitted that the Labour Court has passed the impugned order looking to the conduct of the petitioner. He has submitted that the Labour Court was also justified in not awarding any back wages to the petitioner since there was evidence of gainful employment of the petitioner, and therefore, the impugned order of the Labour Court is required to be confirmed.

5.0 I have heard learned counsel for the parties. Having gone through the documents placed on record, it appears that the petitioner had refused to obey the transfer order, thereby denying to report for duty at Jalna Branch in Maharashtra State. The Labour Court has recorded a finding that transfer of other workers had also taken place as is clear from the oral evidence of one Kirtikumar Bhikhabhai Desai at Exh.26. Transfer of the Employees to its another Branch is an inherent right of the Employer. In my opinion, the Labour Court was justified in directing the respondent to reinstate the petitioner at its Jalna Branch. I am in complete agreement with the reasonings given by the Labour Court in its impugned order and find no reason to interfere in this petition.

6.0 In above view of the matter, this petition is dismissed. The impugned order of the Labour Court, Ahmedabad is confirmed. Rule discharged with no order as to costs.

(K. S. JHAVERI, J.)

pravin/ *